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## **Accountability Report Fiscal Year July 1, 2005 – June 30, 2006**

### **Section I – Executive Summary**

The South Carolina Medical Malpractice Patients' Compensation Fund (PCF) is a state agency, which was created by the General Assembly in 1976 for the specific purpose of providing medical malpractice coverage in excess of South Carolina healthcare provider's basic or primary insurance coverage. The PCF is authorized by Sections 38-79-410 through 38-79-490 of the South Carolina Code of Laws. The PCF is self-supportive through annual member fees and assessments, when appropriate. The PCF currently receives no federal, state or other funding. The PCF operates under the direction of a thirteen-member Board of Governors. The PCF contracts with the SC Joint Underwriting Association to provide a professional insurance brokerage and risk management services with the firm of Marsh USA, Inc., that provides underwriting services, claims & legal services to the PCF and it's Board of Governors.

With the passing of S.83 *The Medical Malpractice Tort Reform*, the responsibility of the management of the funds of the PCF has been transferred to the Board of Governors of the PCF. The funds are deposited into two accounts, a Treasury account and an Investment Account. The Operating Fund of the PCF remains with the State Treasurer. The Operating Fund with the State Treasurer holds the funds of the PCF Budget. All accounts are interest bearing accounts. The Board of Governors is charged with closely monitoring and managing of all accounts.

The PCF issues certificates of membership and collects membership fees. All South Carolina licensed health care providers may participate in the Fund and maintain the participation by remitting to the Board the appropriate membership fees and deficit assessments as are required by the Board on or before the provider's membership anniversary date. Annual fees are set by the PCF Board of Governors on an annual basis effective June 1<sup>st</sup> of each year. Furthermore, the PCF monitors claims and lawsuits against its members, which are investigated, handled and

defended by the basic insurance carrier. The PCF pays any portion of settlements and/or judgments that are in excess of the member's basic coverage up to the member's limits of coverage. The PCF affords the same coverage that is afforded by the member's basic insurance policy, except for the amounts of liability coverage, which vary depending on the requests of the members. The PCF requires a minimum limit of \$200,000 per claim and \$600,000 annual aggregate of all claims under the member's basic coverage.

The PCF continues to make many positive changes under the direction of the Board of Governors. These positive changes consist of the following:

- *Continual updating of the PCF Manual of Rules and Rates and the PCF Plan of Operations*
- *Revising Part-time physician/dentist credit to include governmental physicians/dentists who have a part-time civilian practice*
- *Approved 2.5% rate increase for the lower limits of coverage (1Million/3Million; 3Million/6million; 5Million/7Million; and 10Million/12Million)*
- *Approved a 9.2% increase for unlimited coverage (the lowest increase in five years)*
- *Continues to revise and approve subspecialty rates including Bariatric Surgery and Spinal Surgery only*
- *Continues to offer limits of coverage for members ranging from \$1,000,000 per occurrence/\$3,000,000 per annual aggregate up to unlimited coverage*
- *Became a sponsor of the 100,000 Lives Campaign*

The mission of the PCF:

***“To provide excess medical liability coverage to its members who are South Carolina licensed healthcare providers at an affordable cost. The objective is to better serve the citizens of South Carolina through a viable and adequately funded malpractice program for physicians, dentists, hospital and other healthcare facilities. The PCF Board of Governors is committed to strengthening and preserving the Patients’ Compensation Fund in order to assure that the licensed healthcare providers of South Carolina have adequate liability and litigation protection.”***

PCF's vision is to be the premier provider of excess professional liability insurance and risk management services for the licensed healthcare providers of the state of South Carolina. Our values include:

- Focus on the needs of our members.
- Support and respect all healthcare providers and related relationships.
- Establish a culture of consistency and fairness in our performance.
- Provide leadership with knowledge-based decisions and operate with integrity.
- Embrace change through continuous improvement.
- Work together as a team.
- Make a difference in the community.
- Utilize best business practices.

The PCF provides customer services to its members through enrollment of new members, renewal of current members, collection of fees and assessments and payment of claims. It provides credentialing information to hospitals and managed care organizations in a prompt and accurate fashion.

### **Assessment**

The PCF Board of Governors again determined that a premium assessment was **not** necessary during this fiscal year. The last assessment was in June 2000. The statute grants the Board the authority to make assessments under Section 38-79-450 of the Code of Laws of South Carolina, 1976.

### **Rate Increase**

Following an actuarial review, which was conducted at the direction of the South Carolina Department of Insurance, the PCF Board of Governors voted to implement the following rate increases for the varying limits of coverage:

- \$1,000,000 per occurrence/\$3,000,000 annual aggregate – 2.5% increase
- \$3,000,000 per occurrence/\$6,000,000 annual aggregate – 2.5% increase
- \$5,000,000 per occurrence/\$7,000,000 annual aggregate – 2.5% increase
- \$10,000,000 per occurrence/\$12,000,000 annual aggregate – 2.5% increase
- Unlimited coverage – 9.2% increase

Approximately 5% of the increase for the unlimited coverage is to be apportioned to assist in reducing the PCF's deficit. This increase was based on the actuary's recommendation and was approved by the PCF Board of Governors. The Board of Governors considered a number of factors in their deliberations for a rate increase, including reducing the PCF's deficit, competitive place in the commercial market, actuarial review and providing affordable protections for the healthcare providers in the State of South Carolina. Also included in the consideration of the rate increase this year was the potential future effect of Tort Reform.

The PCF Board continues to surcharge any licensed healthcare providers who have had issues with regards to their State Board licensing. This surcharge applies to sanctions, license revocation or restrictions of the physician's license to practice medicine. The surcharge will remain with the member for a ten (10) year period and is reduced after five (5) years. An inquiry is made to the State Board of Medical Examiners on each new member who applies to the PCF.

Adjustment was made to the experience rating of a physician. The PCF Board of Governors revised the surcharge for experience rating by lowering the percentages charged to a member who has had a paid claim. The length of time of the surcharge remains for 10 years.

## **Section II – Business Overview**

The Patients' Compensation Fund now functions with a staff of five full-time equivalent employees. Mary Ann West retired from the PCF after 20 years of service to the state of South

Carolina. Leigh Brazell was hired to replace Mary Ann. We continue to have five (5) full-time employees. A temporary employee was hired to complete a research project.

At the close of the fiscal year, the PCF had a membership total of 7,050. This includes one nursing home, 35 clinics, 6 hospitals, 902 professional associations, 4,273 physicians, 1,191 dentists and oral surgeons, 486 nurses and techs, 206 pharmacists and other healthcare providers. The PCF paid a total of \$44,585,378.45 for claims, settlements and judgments during the fiscal year. This is an estimated increase of 12% from last fiscal year. The PCF collected \$43,990,580.78 in membership fees which constitutes an approximate increase of 5% from last fiscal year.

There has been a slight drop in our physician membership which we believe is due to the recent practice of South Carolina hospitals purchasing physician practices.

### **Section III – Leadership**

The Board of Governors is composed of three physicians, two dentists, two hospital representatives, two insurance representatives, two attorneys, and two representatives of the general public, all appointed by the Governor. The appointed members serve a term of six years. Currently we are awaiting the replacement of one physician member and one at-large member. The Governor recently appointed the defense attorney member and one at large member.

The Board continues to amend its plan of operation for efficient administration of the Fund, consistent with the provisions of the plan of operations and Article 5 of the enabling legislation.

### **Strategic Planning**

A Strategic Planning Committee has been established for the purpose of engaging in extensive planning for the future of the PCF. The committee is chaired by the Director of the Department of Insurance

The Board continues ongoing revisions to the Plan of Operation, Underwriting Manual of Rules and Rates and Claims Handling Procedures. The Board continues to review and considers legislative changes, which will allow for the more efficient operation and management of the Fund. The plan of operation details procedural information that provides for economic, fair and nondiscriminatory administration and for prompt and efficient provision of excess medical malpractice insurance. The plan contains other provisions including, but not limited to, assessment of all members for expenses, deficits, losses, reasonable underwriting standards, acceptance and cession of reinsurance, appointment of servicing carriers and procedures for determining the amounts of insurance to be provided by the Fund. The plan of operation and any amendments to the plan are subject to the approval of the Director of the Department of Insurance or his designee.

## **Customer Focus**

The Fund provides customer services to its members through enrollment of new members, renewal of current members, collection of fees and assessments, payment of claims and membership inquiries. It provides credentialing information to hospitals and managed care organizations.

The Board has authorized the revision of the membership agreement and the development of applications to better serve its members. The Board continues to allow its members to pay their annual membership fee on a quarterly basis, with a small handling fee.

Physicians and dentists that attend the South Carolina Medical Association and South Carolina Dental Association Risk Management Seminar, which is sponsored by the South Carolina Medical Malpractice Liability Insurance Joint Underwriting Association (JUA), receive a discount in their annual membership fee. The discount is equivalent to a maximum of 25% of the base premium, up to a maximum of \$2,000. It is a one-time discount fee. The discount does not apply to a physician's professional association.

The healthcare providers are credentialed by hospitals, insurance companies and managed care organizations. In order to obtain hospital privileges and participate in managed care organizations, healthcare providers must show proof of professional liability insurance coverage, as well as any claims history. The PCF receives approximately 6,000 requests for this information annually and the PCF provides these requests to its members with a sense of urgency.

Also provided to our members at no charge is Locum Tenens coverage for physicians who have to be away from their practice for up to 45 days per member year. This coverage extends the member coverage to their substitute physician.

## **Information and Analysis**

The Agency has upgraded its computers and technology equipment throughout the period. This includes the purchase of new computers, monitors, needed software and a new off site server. More improvements are expected throughout this coming year including a link to the SC JUA database that will allow for immediate viewing of JUA underwriting data, downloading, copying and access to reports. This will greatly improve efficiency. The Agency continues to utilize the services of an independent vendor for programming purposes, which are critical to the ongoing service efforts due to customer needs.

The PCF continues to update the website with current information focusing on changes in the medical malpractice industry. The website can be accessed at [www.scpf.com](http://www.scpf.com). An important part of our website will be the interactive portion of the website that will allow new members to apply on-line and current members to pay their membership fees on line and verify their coverage. It will also provide access to hospitals and managed care organizations that require updated membership information.

## **Human Resources Focus**

As previously stated, the Agency now consists of five full-time employees. The Director has filled all vacant positions with current and/or part-time employees. She, along with the Board of Governors, continues to closely monitor the employees' ability to meet the demands and needs of its members. All required OHR reporting is completed in a timely manner.

The PCF Executive Director was nominated and chosen to enroll in the Certified Public Manager (CPM) Certification program through the State Office of Human Resources. She is scheduled to graduate from the program in May 2007. Her CPM project will consist of developing and implementing a PCF Customer Service Survey. The survey will focus on the mission and vision of the PCF as it relates to our external customers. This survey will be available on the PCF interactive website as well as random mailing to PCF members and former members that leave the PCF during the current fiscal year. We anticipate that this survey will serve to measure the performance of the PCF staff as it relates to our customer focused initiatives.

The PCF is an organization that works extensively with legal counsel for claims defense, expert witnesses, and claims investigations, all in conjunction with the primary carrier. The effective selection, coordination and management of these professionals are critical to the success of the PCF. It requires professionals with special skills and a high work ethic.

## **Management Controls**

Following the Legislative Audit Council's report of January 2000, a new PCF Board of Governors was appointed. The PCF has implemented the following management controls to ensure the proper administration of the Fund:

- Written policies and procedures
- No longer grant retroactive coverage after a claim is filed
- All information from primary insurer is verified including proper documentation of loss dates, settlement amounts and coverage before payment is made by the Fund
- Controls implemented to ensure accuracy in its computer database
- Implementation of proper computer training to assure all employees have the necessary skills to service our members
- Proper procedures established to ensure timely reporting of claims by the basic carrier and its members
- PCF reports all claims to the National Practitioner Database as required
- PCF does not use proxies for voting and quorums. Confidential matters are discussed in Executive Session. Minutes are taken for all Board Committee Meetings
- PCF attempted to promulgate its regulation to establish Board Policy as required under the Administrative Procedures Act with the help of the Department of Insurance. It did not pass at the hearing. The Chairman asked that it be removed because of trial lawyer's objections.
- One PCF Board members appointment is awaiting executive approval
- By statute, the PCF has authority to determine amount of insurance to be provided. The PCF implements variable limits effective July 1, 2003. The PCF continues to offer the option of unlimited liability to its members

## **Business Results**

The principal challenge of the PCF is to retain current members and at the same time, increase premiums to reduce the loss reserves liability. Revenue is needed to maintain agency solvency, but it is a delicate balance, as a significant loss in members would result in a dramatic increase in premiums for those members who remain in the Fund. The other significant challenge is to manage the claims process effectively and coordinate same with the primary carriers for satisfactory resolution of all claims.

The PCF's goal is to provide medical professionals with effective medical malpractice liability coverage, while ensuring that the PCF is in a financially sound position to pay all of its liabilities. The PCF continues to meet all financial obligations.